

Aug 10, 2009

FILED
CLERK'S OFFICEUNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATIONIN RE: INDIANAPOLIS LIFE INSURANCE
COMPANY I.R.S. § 412(I) PLANS LIFE
INSURANCE MARKETING LITIGATIONJeff Paul, et al. v. Aviva Life & Annuity Co.,
N.D. Illinois, C.A. No. 1:09-1038)
)

MDL No. 1983

TRANSFER ORDER

Before the entire Panel: Defendant Aviva Life & Annuity Co., formerly known as Indianapolis Life Insurance Co. (Indianapolis Life), in this Illinois action (*Paul*) and MDL No. 1983 defendant Indianapolis Life move pursuant to 28 U.S.C. § 1407, seeking transfer of *Paul* to the Northern District of Texas for inclusion in MDL No. 1983 proceedings. The *Paul* plaintiffs oppose the motion.

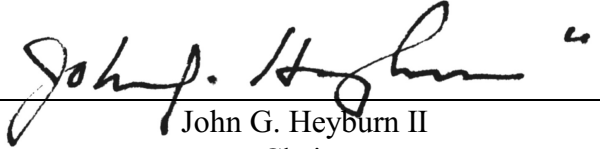
After considering all argument of counsel, we find that *Paul* involves common questions of fact involving the design, marketing and sale of Indianapolis Life whole life insurance policies with actions in this litigation previously transferred to the Northern District of Texas. The previously centralized MDL No. 1983 actions involve the funding of small business defined benefit pension plans with Indianapolis Life insurance policies which were represented to be in compliance with U.S. Internal Revenue Service (I.R.S.) § 412(i). *Paul* involves similar allegations involving Indianapolis Life policies used to fund small business I.R.S. § 419 welfare benefit plans. While *Paul* may involve some unique questions of fact relating to § 419 plans, the transferee judge can establish a separate track, if necessary, to address any unique factual and legal issues which may arise. Transfer of *Paul* to the Northern District of Texas for inclusion in MDL No. 1983 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. We further find that transfer of this action is appropriate for reasons that we set out in our original order directing centralization in this docket. *See In re Indianapolis Life Insurance Company I.R.S. § 412(i) Plans Life Insurance Marketing Litigation*, 581 F.Supp.2d 1364 (J.P.M.L. 2008).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the Northern District of Texas and, with the consent of that court, assigned to the Honorable Jane J. Boyle for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT IS FURTHER ORDERED that this docket is renamed as follows: IN RE: Indianapolis Life Insurance Company I.R.S. § 412(i) and § 419 Plans Life Insurance Marketing Litigation.

- 2 -

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
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Kathryn H. Vratil
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